

AN ORDINANCE

03-O-0407

BY COUNCILMEMBER DEBI STARNES

AS SUBSTITUTED BY FINANCE/EXECUTIVE COMMITTEE

AUTHORIZING THE MAYOR TO ENTER INTO A SECOND AMENDED AND RESTATED WATER/SEWER REIMBURSEMENT AGREEMENT WITH ATLANTIC STATION, L.L.C.; APPROPRIATING FUNDS IN THE AMOUNT OF \$8,000,000; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta, by Resolution No. 99-R-1344, adopted by the City Council on October 4, 1999 and signed by the Mayor on October 5, 1999, has designated the Atlantic Steel Brownfield Redevelopment Area, adopted a redevelopment plan, and created the Tax Allocation District Number Two--Atlantic Steel (the "TAD") to facilitate to redevelopment of the area, the site of a former steel mill, into a mixed use community of homes, offices, shops, recreation, and hotels; and

WHEREAS, Atlantic Station, L.L.C. ("Atlantic Station") has acquired the real property located in the Redevelopment Area and is developing the property in accordance with the Atlantic Steel Brownfield Redevelopment Plan; and

WHEREAS, the Redevelopment Area contained no useable water supply or sanitary sewer infrastructure; and

WHEREAS, the Redevelopment Plan provided that the City, through the TAD, would pay the costs for infrastructure construction, including roads, utilities, environmental remediation and capping, and the parking garage; and

WHEREAS, the Redevelopment Plan provided further that the "Total Phase I TAD Contribution" from the City would not exceed \$110,000,000; and

WHEREAS, the Redevelopment Plan provided further that "[m]atching funds will be sought to assist in projects (sic) financing from appropriate funding sources;" and

WHEREAS, as part of implementation of the Redevelopment Plan, Atlantic Station and the City entered into a Development Agreement whereby Atlantic Station agreed to construct the necessary water and sanitary sewer infrastructure and other infrastructure needed in order to develop the site in accordance with the Redevelopment Plan; and

WHEREAS, the sanitary sewer improvements constructed by Atlantic Station included separation of the storm and sanitary sewer system and construction of a 36-inch sanitary sewer bypass system for final connection to the City's existing 54-inch sanitary sewer (the "Sewer Improvements"); and

WHEREAS, pursuant to Ordinance 00-O-1963, adopted by the Council on December 4, 2000 and signed by the Mayor on December 12, 2000, the City provided interim financing of

\$10,000,000 for construction of the Sewer Improvements until tax allocation bonds could be issued as provided in the Redevelopment Plan; and

WHEREAS, in accordance with the provisions of Ordinance 00-O-1963, the City and Atlantic Station entered into a Water/Sewer Reimbursement Agreement dated February 19, 2001 for payment of the interim financing; and

WHEREAS, the City issued \$76,505,000 in Series 2001 Tax Allocation Bonds on October 25, 2001 (the "TAD Bonds"); and

WHEREAS, at the closing of the TAD Bonds, the City withdrew \$10,000,000 in TAD Bond proceeds for reimbursement of the Water and Sewer Renewal and Extension Fund of the amount previously paid to Atlantic Station; and

WHEREAS, Atlantic Station received approximately \$45,400,000 from the proceeds of the TAD Bonds, which was not sufficient to reimburse Atlantic Station for all costs of the Sewer Improvements and other infrastructure constructed in Phase I in accordance with the Redevelopment Plan, which costs total \$138,899,000 to date; and

WHEREAS, by Ordinance 01-O-1900, adopted by the Council on November 19, 2001 and approved by the Mayor on November 27, 2001, the City accepted dedication of the Sewer Improvements and accompanying sewer easements and assignments; and

WHEREAS, the Sewer Improvements, defined as the "Atlantic Steel Separation Project," were included in the City of Atlanta Water and Wastewater Revenue Bonds Series 2001A as a "CSO Related Project;" and

WHEREAS, by Ordinance 02-O-0092, which was adopted by the Council on February 18, 2002, and approved by the Mayor on March 5, 2002, the City appropriated \$11,770,000 in funds from the Series 2001A bond issue (Water and Wastewater Bond Construction Fund) for funding of a portion of the costs of the Sewer Improvements; and

WHEREAS, in accordance with the provisions of Ordinance 02-O-0471, adopted by the Council on March 18, 2002 and approved by the Mayor on March 26, 2002, the City and Atlantic Station entered into a First Amended and Restated Water/Sewer Reimbursement Agreement for payment of \$11,770,000; and

WHEREAS, Atlantic Station has expended the sum of \$21,584,835 for construction of the Sewer Improvements; and

WHEREAS, the Council now desires to authorize execution of a Second Amended Water/Sewer Reimbursement Agreement and to appropriate \$8,000,000 for payment to Atlantic Station of additional sums owed for construction of the Sewer Improvements as provided in the Redevelopment Plan and the Series 2001A Water and Wastewater Revenue Bonds.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS as follows:

Section 1. The Mayor is authorized to enter into a Second Amended and Restated Water/Sewer Reimbursement Agreement with Atlantic Station, L.L.C. for reimbursement of an amount not to exceed \$8,000,000 for construction of the Sewer Improvements in the Atlanta Steel Brownfield Redevelopment Area.

Section 2. This reimbursement shall be made in addition to the reimbursement of \$11,770,000 authorized by Ordinance 02-O-0471 and appropriated by Ordinance 02-O-0092, which shall otherwise remain in full force and effect.

Section 3. The 1999 Water and Wastewater Bond Fund is hereby amended as follows:

Transfer From Appropriations

2J26 791001 T11001	Fundwide Reserves	<u>\$8,000,000.00</u>
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Transfer to Appropriations

2J26 774001 M24I02569999	Atlantic Station Sewer	<u>\$8,000,000.00</u>
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Section 4. All expenses under this Second Amended and Restated Water/Sewer Reimbursement Agreement shall be paid from fund, account and center number 2J26 591001 M24I02569999.

Section 5. The City Attorney shall review and approve as to form an appropriate contractual agreement for execution by the Mayor.

Section 6. Said agreement shall not become binding on the City, and the City shall not incur any liability thereunder, until the agreement has been signed by the Mayor and delivered to Atlantic Station, L.L.C.